

**Notice of Allowability**

Application No.

09/740,624

Examiner

Dwayne K Handy

Applicant(s)

WARHURST ET AL.

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1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the arguments filed 08/02/2004.
2. ☒ The allowed claim(s) is/are 1-3,6 and 11-17.
3. ☒ The drawings filed on 19 December 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

***Allowable Subject Matter***

1. Claims 1-3, 6 and 11-17 are allowed.
2. The following is an examiner's statement of reasons for allowance:

In claim 1 applicant has claimed a cover assembly for a microplate comprised of 4 main elements: (1) a layer of material shaped and dimensioned to removably seal a plurality of well openings; (2) a pressure plate disposed on the material layer for dispersing a compressive force uniformly across the material layer, (3) a cover having a top and first and second sides, the top being shaped to generate compressive force when engaged with the microplate, the sides each including an inward projection; and (4) a plurality of vertical tabs extending downward from the side projections that register with a plurality of recesses in the cover wherein a plurality of assemblies may be stacked with the vertical tabs of each cover assembly extending into the recesses of a cover assembly directly beneath. Claims 13 and 15 also contain the material layer, pressure plate, and cover elements. In claim 13, the top has a central, longitudinal extending portion that is in contact with the pressure plate and lateral portions with projections for extending upward. The lateral portions place upward pressure on the bottom edges of the microplate while the central portion of the cover provides a downward force. Claim 15 contains the projections on the cover sides, but does not recite the central longitudinal portion.

The Examiner considers the prior art "Hall" (US 2002/0039545) to be the closest prior art. Hall teaches an assembly for covering a microplate containing many of the

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same features of the instant invention. Hall does **NOT** teach a pressure plate, however. The Examiner agrees with applicant that Hall, in fact, teaches away from a pressure plate (Applicant's arguments, page 11, lines 1-6) by making their cover assembly a combination of a metal cover piece integrated with a gasket. Therefore, it would not be obvious to add a pressure plate element to the device of Hall.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K Handy whose telephone number is (571)-272-1259. The examiner can normally be reached on M-F 8:00-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DKH  
September 28, 2004

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700